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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO MODIFY FOUR
EXISTING CROSSINGS OF THE BURLINGTON
NORTHERN SANTA FE RAILWAY AT 103RD,
107TH, 111TH AVENUES AND GREENWAY
ROAD, IN MARICOPA COUNTY, ARIZONA.

DOCKET NO. RR-02635B-10-0305

PROCEDURAL ORDER

BY THE COMMISSION:

On July 22, 2010, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the modification of four crossings of the Burlington Northern Santa Fe Railway ("Railroad") in Maricopa County ("County"), Arizona. The first three of the crossings are in the County and the last one is in the City of Surprise ("City") as follows: 103rd Avenue at USDOT NO. 025 399 X; 107th Avenue at USDOT NO. 025 398 R; 111th Avenue at USDOT NO. 025 397 J; and Greenway Road at USDOT NO. 025 651 J ("Application").

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of ADOT shall be considered an application for the Railroad to modify four existing crossing pursuant to A.R.S. § 40-337, et seq.

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **November 16, 2010, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural

Order, **THE ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE RAILROAD, MARICOPA COUNTY, THE CITY OF SURPRISE AND ANY OTHER MUNICIPALITY OR INTERESTED PARTY** that may be affected by the application with a copy of the application and this Procedural Order by certified mail.

IT IS FURTHER ORDERED that Safety Division, Railroad Safety Section ("Staff") shall prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of them with Docket Control on or before 4:00 p.m. on **September 29, 2010**.

IT IS FURTHER ORDERED that any **objections to the Staff Report and associated exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **October 11, 2010**.

IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **September 22, 2010**.

IT IS FURTHER ORDERED that Arizona Department of Transportation shall provide public notice of the hearing in this matter, in the following form and style:

PUBLIC NOTICE OF THE HEARING IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO MODIFY FOUR EXISTING CROSSINGS OF THE BURLINGTON NORTHERN SANTA FE RAILWAY AT 103RD, 107TH, 111TH AVENUES AND GREENWAY ROAD, IN MARICOPA COUNTY, ARIZONA.
(DOCKET NO. RR-02635B-10-0305)

On July 22, 2010, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the modification of four crossings of the Burlington Northern Santa Fe Railway ("Railroad") in Maricopa County, Arizona. The first three of the crossings are in the County and the last one is in the City of Surprise ("City") as follows: 103rd Avenue at USDOT NO. 025 399 X; 107th Avenue at USDOT NO. 025 398 R; 111th Avenue at USDOT NO. 025 397 J; and Greenway Road at USDOT NO. 025 651 J.

The application is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

The Commission will hold a hearing on this matter commencing on **November 16, 2010 at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in

1 the matter. Persons desiring to intervene must file a written motion to intervene with
2 the Commission, which motion should be sent to Applicant or its counsel and to all
3 parties of record, and which, at the minimum, shall contain the following:

- 4 1. The name, address, and telephone number of the proposed intervenor and of
5 any party upon whom service of documents is to be made if different than the
6 intervenor.
- 7 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,
8 a customer of Railroad, a neighboring property owner, a crossing user, etc.).
- 9 3. A statement certifying that a copy of the motion to intervene has been mailed
10 to the Applicant or its counsel and to all parties of record in the case.

11 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
12 that all motions to intervene must be filed on or before September 22, 2010. If
13 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
14 Court, intervention will be conditioned upon the intervenor obtaining counsel to
15 represent the intervenor. For information about requesting intervention, visit the
16 Arizona Corporation Commission's webpage at <http://www.azcc.gov/divisions/utilities/forms.asp>.
17 The granting of intervention, among other things, entitles a party to present sworn
18 evidence at hearing and to cross-examine other witnesses. However, failure to
19 intervene will not preclude any customer from appearing at the hearing and making a
20 statement on such customer's own behalf.

21 If you have any questions about this application, you may contact the applicant at
22 [insert telephone number]. If you wish to file written comments on the application
23 or want further information on intervention, you may write the Consumer Services
24 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona
25 85007 or call 602-542-4251 or 1-800-222-7000 or appear at the hearing and make
26 comment.

27 The Commission does not discriminate on the basis of disability in admission to its
28 public meetings. Persons with a disability may request a reasonable accommodation
such as a sign language interpreter, as well as request this document in an alternative
format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number
602/542-3931, E-mail SABernal@azcc.gov. Requests should be made as early as
possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Arizona Department of Transportation shall cause the
above notice to be published at least once in a newspaper of general circulation in the city where the
crossing is located, with **publication to be completed no later than September 1, 2010.**


IT IS FURTHER ORDERED that notice shall be deemed complete upon the publication of
same, notwithstanding the failure of an individual or entity to read or receive the notice.

IT IS FURTHER ORDERED that **ARIZONA DEPARTMENT OF TRANSPORTATION
SHALL FILE CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET
CONTROL AS SOON AS PRACTICABLE** after the publication of notice ordered herein has been
completed.

IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 11TH day of August, 2010.


MARC E. STERN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 11TH day of August, 2010 to:

Melvin V. Thomas, Manager Public Projects
BURLINGTON NORTHERN SANTA FE
RAILWAY COMPANY
740 East Carnegie Drive
San Bernardino, CA 92408-3571

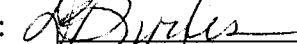
Brian Lehman, Chief
Railroad Safety Section
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Robert Travis, PE, State Railroad Liaison
Utilities & Railroad Engineering Section
ARIZONA DEPARTMENT OF
TRANSPORTATION
205 South 17th Avenue, Room 357
Mail Drop 618E
Phoenix, AZ 85007-3212

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

Traffic Records Section
ARIZONA DEPARTMENT OF
TRANSPORTATION
206 South 17th Avenue, Mail Drop 064R
Phoenix, AZ 85007-3213

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

By: 
Debra Broyles
Secretary to Marc E. Stern